

Joint Standing Committee on Health and Human Services

LD 59

An Act to Adjust MaineCare Reimbursement Rates

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERRIERE-BOUC	ONTP MAJ OTP-AM MIN	

LD 59 proposed to direct the Department of Human Services to adopt rules to raise reimbursement rates for health care professionals in the MaineCare program by 20% the rates in effect on January 1, 2003, subject to a cap at the usual and customary rates in effect on January 1, 2003.

Committee Amendment "A" (H-671) proposed to change the effective date of the proposed increased reimbursement rates for the MaineCare program from January 1, 2004 to October 1, 2004.

LD 73

**An Act to Make the Children's Ombudsman Program an
Independent Office**

**DIED BETWEEN
BODIES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAVERRIERE-BOUC BRYANT	RECEIVED BY CLERK PUR TO JT RULE 309	

LD 73 proposed to remove from the Executive Department the ombudsman program that handles child welfare inquiries and complaints and proposed to maintain the current duties of the ombudsman program.

House Amendment "A" (H-650) proposed to require the Department of Administrative and Financial Services to administer and monitor the contract for child welfare ombudsman services. This amendment proposed to add an appropriations and allocations section to the bill. This amendment also proposed to make technical changes to the bill.

House Amendment "B" (H-841) was presented on behalf of the Committee on Bills in the Second Reading to proposed to incorporate changes made to the Maine Revised Statutes, Title 22, section 4087-A, subsection 4 by Public Law 2003, chapter 20, Part EEE, section 1.

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LD 156

**An Act to Require that Patients in Private Mental Hospitals Be
Afforded the Same Rights As Patients in State Mental Institutions**

**PUBLIC 649
EMERGENCY**

Sponsor(s)
BENNETT R

Committee Report
OTP-AM

Amendments Adopted
S-482

LD 156 proposed to require the Commissioner of Human Services to adopt routine technical rules to provide the same enhancement and protection of rights for patients receiving services from a private hospital for the treatment of mental illness that is provided under existing law and rule for patients receiving services from the Department of Behavioral and Developmental Services, from a state mental health institute or from a private mental health institution under a contract with the state to receive involuntary patients.

Committee Amendment “A” (S-482) proposed to replace the bill. The amendment proposed to require the Commissioner of Human Services to adopt routine technical rules by August 1, 2004 to protect the rights of adult patients receiving mental health services in hospitals that are nonstate mental health institutions and are not subject to the grievance procedures of the Department of Behavioral and Developmental Services. It proposed to require the Commissioner to hold a public hearing before adopting the rules. The amendment proposed to require that the rights protected under the rules to be consistent with the rights of recipients of mental health services that are applicable in other settings, including the same opportunity for hearing and type of hearing that is provided under Department of Behavioral and Developmental Services rules. The amendment proposed to provide for delegation of authority for hearing grievances from the Department of Human Services to the Department of Behavioral and Developmental Services. The amendment proposed to designate the decision of the Department of Behavioral and Developmental Services as final agency action for purposes of appeal to court. The amendment proposed to add an emergency preamble and an emergency clause.

Enacted Law Summary

Public Law 2003, chapter 649, requires the Commissioner of Human Services to adopt routine technical rules by August 1, 2004 to protect the rights of adult patients receiving mental health services in hospitals that are nonstate mental health institutions and are not subject to the grievance procedures of the Department of Behavioral and Developmental Services. It requires the Commissioner to hold a public hearing before adopting the rules. The law also requires that the rights protected under the rules be consistent with the rights of recipients of mental health services that are applicable in other settings, including the same opportunity for hearing and type of hearing that is provided under Department of Behavioral and Developmental Services rules. The law provides for delegation of authority for hearing grievances from the Department of Human Services to the Department of Behavioral and Developmental Services and designates the decision of the Department of Behavioral and Developmental Services as final agency action for purposes of appeal to court.

Public Law 2003, chapter 649 was enacted as an emergency effective April 22, 2004.

Joint Standing Committee on Health and Human Services

LD 159

An Act To Refine the Criteria for Issuing a Certificate of Need

**PUBLIC 514
EMERGENCY**

Sponsor(s)
TURNER
DUGAY

Committee Report
OTP-AM

Amendments Adopted
S-363

LD 159 proposed to require that applications for certificates of need be judged in reference to the state health plan, data from the Maine Health Data Organization and other data available to the Commissioner of Human Services. It proposed to require that particular weight be given to information that the proposed health care services are innovations in high quality health care delivery and that the facility proposing the new health services is designed to provide excellent quality health care.

Committee Amendment "A" (S-363) proposed to retain the provisions of the bill that require applications for certificates of need be judged in reference to the state health plan, data from the Maine Health Data Organization and other information available to the Commissioner of Human Services. It also proposed to retain the provisions that require that particular weight be given to information that the proposed health care services are innovations in high quality health care delivery and that the facility proposing the new health services is designed to provide excellent quality health care. It proposed to update the bill language to reflect amendments to the certificate of need law enacted in 2003. It proposed to add language permitting the Department of Human Services to approve a nursing facility project if the project has been recommended for conditional approval prior to February 15, 2004, the project complies with other state rules and federal regulations and the project demonstrates cost-neutrality using savings obtained from the purchase of beds from the Maine Health and Higher Education Facilities Authority and approved by the Department of Human Services. The amendment proposed to direct the Department of Human Services to report to the Joint Standing Committee on Health and Human Services regarding funding nursing facility projects under the Maine Revised Statutes, Title 22, section 334. The amendment proposed to add an emergency preamble and an emergency clause.

Enacted Law Summary

Public Law 2003, chapter 514 requires applications for certificates of need to be judged in reference to the state health plan, data from the Maine Health Data Organization and other information available to the Commissioner of Human Services. It requires that particular weight be given to information that the proposed health care services are innovations in high quality health care delivery and that the facility proposing the new health services is designed to provide excellent quality health care. It permits the Department of Human Services to approve a nursing facility project if the project has been recommended for conditional approval prior to February 15, 2004, complies with other state rules and federal regulations and demonstrates cost-neutrality using savings obtained from the purchase of beds from the Maine Health and Higher Education Facilities Authority and approved by the Department of Human Services. The law directs the Department of Human Services to report to the Joint Standing Committee on Health and Human Services regarding funding nursing facility projects under the Maine Revised Statutes, Title 22, section 334.

Public Law 2003, chapter 514 was enacted as an emergency measure effective February 11, 2004.

Joint Standing Committee on Health and Human Services

LD 175

Resolve, To Allow MaineCare Reimbursement for Licensed Marriage and Family Therapists To Provide Services to Child Protective Services Clients and Adult Protective Services Clients

RESOLVE 107

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PATRICK BRYANT	OTP-AM	H-675

LD 175 proposed to allow licensed marriage and family therapists to be eligible for MaineCare reimbursement for counseling services whenever licensed professional counselors or licensed clinical professional counselors are eligible for reimbursement for those services.

Committee Amendment "A" (H-675) proposed to replace the bill and make it a resolve. The amendment proposed to require the Department of Human Services to amend its MaineCare rules to allow licensed marriage and family therapists to provide services to children or adults referred by the Bureau of Child and Family Services or the Bureau of Elder and Adult Services. The amendment proposed to require the Department of Human Services to report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 31, 2005 regarding the implementation and initial impact of this rule change.

Enacted Law Summary

Resolve 2003, chapter 107 requires the Department of Human Services to amend its MaineCare rules to allow licensed marriage and family therapists to provide assessment, counseling and therapeutic services to children or adults referred by the Bureau of Child and Family Services or the Bureau of Elder and Adult Services. The resolve requires the Department of Human Services to report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 31, 2005 regarding the implementation and initial impact of this rule change.

LD 535

An Act To Strengthen Health Data Information and Health Planning

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TURNER DUDLEY	ONTP MAJ OTP-AM MIN	

LD 535 proposed to establish the State Health Planning Commission to adopt a statewide comprehensive health plan by November 1, 2003 and every 2 years thereafter and to report to the Legislature and the Department of Human Services once every 2 years. The bill proposed to require the Maine Health Data Organization to work with other organizations to evaluate health outcomes and clinical pathways. It also proposed to require the Maine Health Data Organization to collect data on total health care system utilization, costs and revenues and to release information to the public in a user-friendly manner.

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LD 584

An Act To Strengthen the Maine Certificate of Need Act of 2002

PUBLIC 621

Sponsor(s)
TRAHAN

Committee Report
OTP-AM

Amendments Adopted
H-816

LD 584 proposed to increase the applicability of the certificate of need law to health care facilities, regardless of ownership. It proposed to repeal provisions for subsequent review following approval of a certificate of need. The bill proposed to expand the scope of the periodic reports to the Department of Human Services by an applicant who has been granted a certificate of need. It proposed to exempt from the certificate of need process the conversion by a critical access hospital of banked hospital beds to swing beds.

Committee Amendment "A" (H-816) proposed to replace the bill. It proposed to extend the exemption from certificate of need applicable to critical access hospitals converting swing beds to hospitals in the process of becoming critical access hospitals and to clarify that the exemption applies to licensed acute care beds.

Enacted Law Summary

Public Law 2003, chapter 621 extends the exemption from certificate of need applicable to critical access hospitals converting swing beds to hospitals in the process of becoming critical access hospitals and clarifies that the exemption applies to licensed acute care beds.

LD 585

An Act to Establish a Statewide Primary and Preventive Health Care Program

ONTP

Sponsor(s)
TRAHAN
HALL

Committee Report
ONTP

Amendments Adopted

LD 585 proposed to establish a statewide primary and preventive health care program, a Medicaid waiver program to serve children and adults with family incomes up to 300% of the federal poverty level, subject to adjustment by the Commissioner of Human Services in order to maximize coverage and prevent overspending by the program. The program proposed to include an Internet resource guide and health weeks twice per year to promote good health and encourage enrollment in the program. The program proposed to include an advisory committee to advise the Department of Human Services on consumer copayments and premiums. The bill proposed to require administration of the program to be coordinated and integrated with the MaineCare program. The bill proposed to require 4 public hearings on a statewide basis prior to the operation of the program. The bill proposed to require quarterly fiscal reports. The bill proposed to require the waiver application to be filed by January 1, 2004.

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LD 611

An Act To Obtain Substance Abuse Services for Youth in Need of Services

PUBLIC 561

Sponsor(s)
ROTUNDO

Committee Report
OTP-AM

Amendments Adopted
S-400

LD 611 proposed to allow the Department of Behavioral and Developmental Services to provide alcohol and drug treatment services to a minor on the request of the minor's parent. It proposed to require services provided upon request of the parent to be as intensive as services provided to a minor on a voluntary basis.

Committee Amendment "A" (S-400) proposed to replace the bill. The amendment proposed to refine the definition of "youth in need of services" to include in the definition a child who is abusing alcohol or drugs and is at risk of serious harm as a result. The amendment proposed to require the Department of Human Services to include in its annual report on youth in need of services information on the number and characteristics of youth who refuse services and to share that information with the Department of Behavioral and Developmental Services, Office of Substance Abuse. The amendment proposed to require the Office of Substance Abuse to increase training for substance abuse services providers and Youth in Need of Services Program providers in methods to engage reluctant youth; to create incentives for providers to increase recruitment and retention of reluctant adolescent clients; to provide information to help providers increase services for parents of adolescent clients; to conduct outreach and education to help parents of children who are abusing drugs to locate resources; and to report by October 1, 2004 to the Joint Standing Committee on Health and Human Services.

Enacted Law Summary

Public Law 2003, chapter 561 amends the definition of "youth in need of services" to include in the definition a child who is abusing alcohol or drugs and is at risk of serious harm as a result. The law requires the Department of Human Services to include in its annual report on youth in need of services information on the number and characteristics of youth who refuse services and to share that information with the Department of Behavioral and Developmental Services, Office of Substance Abuse. The law requires the Office of Substance Abuse to increase training for substance abuse services providers and Youth in Need of Services Program providers in methods to engage reluctant youth; to create incentives for providers to increase recruitment and retention of reluctant adolescent clients; to provide information to help providers increase services for parents of adolescent clients; to conduct outreach and education to help parents of children who are abusing drugs to locate resources; and to report by October 1, 2004 to the Joint Standing Committee on Health and Human Services.

LD 616

Resolve, To Improve the Quality of Health Care

RESOLVE 118

Sponsor(s)
PENDLETON
RICHARDSON J

Committee Report
OTP-AM MAJ
ONTP MIN

Amendments Adopted
S-427

LD 616 proposed to impose minimum staffing requirements for nurse-to-patient staffing on all hospitals with an increase of nurses required based on the acuity of the patients. The bill proposed to direct the Department of Human Services to adopt rules, which are classified as major substantive rules, for establishing an acuity-based patient classification system in hospitals.

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Committee Amendment "A" (S-427) was the majority report of the committee. It proposed to direct the Maine Quality Forum Advisory Council to review direct-care registered nurse staffing levels in general, acute and specialty care hospitals, the issue of minimum staffing ratios for direct-care registered nurses in hospitals and the rules of the Department of Human Services on direct-care registered nurse staffing. It proposed to direct the council to report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on its review under this section and any recommendations from the council by January 15, 2005.

Enacted Law Summary

Resolve 2003, chapter 118 directs the Maine Quality Forum Advisory Council to review direct-care registered nurse staffing levels in general, acute and specialty care hospitals, the issue of minimum staffing ratios for direct-care registered nurses in hospitals and the rules of the Department of Human Services on direct-care registered nurse staffing. The council is directed to report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on its review under this section and any recommendations from the council by January 15, 2005.

LD 713

An Act to Support Health Care Safety Net Programs

ONTP

Sponsor(s)
MARTIN

Committee Report
ONTP

Amendments Adopted

LD 713 proposed to provide funding for the Bureau of Health, within the Department of Human Services, to make grants to federally qualified health centers, Indian Health Service - supported centers and the Maine Primary Care Association to support health care safety net programs. The additional funding would have been offset by an increase in the cigarette tax from \$1 to \$1.05 per pack.

LD 1066

**Resolve, To Establish a Committee To Examine Issues Relating to
the Administration of Municipal General Assistance**

RESOLVE 116

Sponsor(s)
DUDLEY
BRENNAN

Committee Report
OTP-AM

Amendments Adopted
H-738

LD 1066 proposed to increase the temporary maximum levels for municipal general assistance from a level based on fair market rents to a level based on rents adjusted by established maximum levels of assistance for food. The bill proposed to require the Department of Human Services to reimburse municipalities for the increased expenditures associated with the bill in 2004 and to adopt rules to equitably distribute the costs beginning in 2005.

Committee Amendment "A" (H-738) proposed to replace the bill and make it a resolve. The amendment proposed to require the Department of Human Services to convene a general assistance committee composed of persons interested in the administration of municipal general assistance. The amendment proposed to direct the committee to make policy recommendations regarding general assistance and to report its recommendations to the joint standing committee of the Legislature having jurisdiction over human services matters, with a progress report

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by January 15, 2005 and a final report by January 15, 2006. It also proposed to authorize the joint standing committee to report out legislation to the Second Regular Session of the 122nd Legislature based on the report of the general assistance committee.

Enacted Law Summary

Resolve 2003, chapter 116 requires the Department of Human Services to convene a general assistance committee composed of persons interested in the administration of municipal general assistance. The resolve directs the committee to make policy recommendations regarding general assistance and to report submit a progress report by January 15, 2005 and final recommendations to the joint standing committee of the Legislature having jurisdiction over human services matters by January 15, 2006. The resolve also authorizes the joint standing committee to report out legislation to the Second Regular Session of the 122nd Legislature based on the report of the general assistance committee.

LD 1090

Resolve, To Promote Recruitment and Retention of Direct Care Workers in Long-term Care in Maine

RESOLVE 113

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS LAVERRIERE-BOUC	OTP-AM	H-743 KANE S-402

LD 1090 proposed to provide funds to increase compensation to direct care workers and create demonstration grants for retention of direct care workers in nursing facilities, residential care facilities and home health care. The resolve also proposed to direct the Department of Human Services to study wages, benefits and reimbursement for these workers and report back to the Second Regular Session of the 121st Legislature.

Committee Amendment "A" (S-402) proposed to replace the resolve. It proposed to require continuing work on the recruitment and retention of direct care workers and to provide for a report by January 15, 2005 to the joint standing committee of the Legislature having jurisdiction over health and human services matters.

House Amendment "A" to Committee Amendment "A" (H-743) proposed to clarify that the joint standing committee of the Legislature having jurisdiction over health and human services matters has authority to report legislation to the First Regular Session of the 122nd Legislature.

Enacted Law Summary

Resolve 2003, chapter 113 requires continuing work on the recruitment and retention of direct care workers and provides for a report by January 15, 2005 to the joint standing committee of the Legislature having jurisdiction over health and human services matters. It authorizes the joint standing committee to report legislation to the First Regular Session of the 122nd Legislature.

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LD 1127

An Act To Require Fire-safe Cigarettes in the State

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BULL EDMONDS	ONTP	

LD 1127 proposed to provide that, beginning January 1, 2004, only cigarettes that meet the standards of fire-safe cigarettes as established by the State Fire Marshal may be offered for sale in this State.

LD 1291

An Act To Establish a System of Advocacy and Oversight To Benefit Persons with Mental Retardation and Autism

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN	ONTP	

LD 1291 proposed to repeal and reestablish the Consumer Advisory Board that was established by the community consent decree for persons with mental retardation or autism. The bill proposed to extend the responsibilities of the board to serve individuals who are clients of the Department of Behavioral and Developmental Services but not members of the class covered by the community consent decree. It also proposed to amend the duties of the Department of Behavioral and Developmental Services, Office of Advocacy and to require the board and the office to work cooperatively with each other.

LD 1341

Resolve, Directing the Department of Human Services To Adopt Rules To Reduce Regulatory Burdens on Home Health Agencies while Maintaining Budget Neutrality

**RESOLVE 109
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KANE EDMONDS	OTP-AM	H-695

LD 1341 proposed to direct the Department of Human Services to amend the rules regarding medical assessment for long-term care services reimbursed under the MaineCare program as they pertain to assessments for home health care services in order to streamline the process, eliminate unnecessary regulatory burdens and utilize appropriate assessment mechanisms being used for other purposes or programs. The rules were proposed to be designated as routine technical rules.

Committee Amendment "A" (H-695) proposed to add emergency language to the resolve. It proposed to direct the Department of Human Services to adopt rules regarding medical assessment for home health care services under Rule Chapter 101, the MaineCare Benefits Manual, Ch. II - Section 40. The rules were proposed to allow the initial assessment period to move from no less than 60 days to no more than 120 days. The amendment proposed that the rule must be cost neutral. The amendment proposed to require a report by April 1, 2005. The amendment also proposed to change the title.

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Enacted Law Summary

Resolve 2003, chapter 109 directs the Department of Human Services to adopt rules regarding medical assessment for home health care services under Rule Chapter 101, the MaineCare Benefits Manual, Ch. II - Section 40. The rules may move the initial assessment period from no less than 60 days to no more than 120 days. The resulting rule must be cost neutral. The law requires a report by April 1, 2005 to the Health and Human Services Committee.

Resolve 2003, chapter 109 was enacted as an emergency measure, effective March 10, 2004.

LD 1563

An Act Regarding Standard Contracts for Assisted Living Services

PUBLIC 546

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KANE WESTON	OTP	

LD 1563 proposed to provide that a contract or agreement for assisted living services must contain the provisions designated as required in the standardized contract adopted by the Department of Human Services by rule pursuant to Public Law 1999, chapter 731, Part BBBB, section 5 and that it may contain other provisions that do not violate a state law or rule or federal law or regulation.

Enacted Law Summary

Public Law 2003, chapter 546 provides that a contract or agreement for assisted living services must contain the provisions designated as required in the standardized contract adopted by the Department of Human Services by rule pursuant to Public Law 1999, chapter 731, Part BBBB, section 5 and may contain other provisions that do not violate a state law or rule or federal law or regulation.

LD 1621

An Act To Amend the Structure of the Office of Advocacy

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRENNAN KANE	ONTP MAJ OTP MIN	

LD 1621 proposed to amend the structure and administration of the Office of Advocacy in the Department of Behavioral and Developmental Services. The bill proposed to require the Office of Advocacy to provide adult protective services as described in the Maine Revised Statutes, Title 22, section 3473. The bill also proposed to create the position of Director and eliminate the position of Chief Advocate within the Office of Advocacy. The bill proposed to require the department to study the effectiveness of the amended structure of the office and to submit its recommendations to the Joint Standing Committee on Health and Human Services by July 1, 2004.

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LD 1631

An Act To Prohibit the Sale of Water Containing Nicotine

PUBLIC 623

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN	OTP-AM MAJ	S-436
KOFFMAN	OTP-AM MIN	

LD 1631 proposed to prohibit the sale or possession of water laced with nicotine in this State and establish a fine of \$500 for a first offense, \$1,000 for a 2nd offense and \$5,000 for a 3rd or subsequent offense.

Committee Amendment "A" (S-436) was the majority report of the committee. The amendment proposed to replace the bill. It proposed to prohibit selling, furnishing or giving away nicotine water, which is water with added nicotine or an alkaloid of nicotine. It proposed to reorganize the penalty provisions from the bill.

Enacted Law Summary

Public Law 2003, chapter 623 prohibits selling, furnishing or giving away nicotine water, which is water with added nicotine or an alkaloid of nicotine. It specifies fines of \$500 for a first offense, \$1,000 for a second offense and \$5,000 for a third or subsequent offense.

LD 1640

An Act To Provide Accurate Vital Records for Adults in Maine

PUBLIC 585

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRUNO	OTP-AM	H-739

LD 1640 proposed to require the State Registrar of Vital Statistics to amend a birth certificate to reflect the identity of the biological parent of the subject of the birth certificate when the state registrar receives proof based on testing of deoxyribonucleic acid, DNA, that a person is a biological parent of the subject of the certificate of birth and receives written consent from that biological parent.

Committee Amendment "A" (H-739) proposed to replace the bill. The amendment proposed to retain the provision of the bill that authorizes the State Registrar of Vital Statistics to amend a birth certificate to include identification of a biological parent whose parentage is based on the results of DNA testing. The amendment proposed to clarify that this authorization applies only to the birth certificates of persons 18 years of age or older. The amendment proposed to retain the provision of the bill that requires written consent of the biological parent to be named on the amended birth certificate. The amendment also proposed to add the following requirements for obtaining an amended birth certificate: notarized consent of the biological parent and the subject of the birth certificate; notarized DNA testing results; notarized documentation of the chain of custody of the samples used in DNA testing; and DNA testing of a type generally acknowledged as reliable conducted by a laboratory approved by a federally designated accreditation body.

Enacted Law Summary

Public Law 2003, chapter 585 authorizes the State Registrar of Vital Statistics to amend a birth certificate to include identification of a biological parent whose parentage is based on the results of DNA testing. The law specifies that this authorization applies only to the birth certificates of persons 18 years of age or older. The law

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specifies the following requirements for obtaining an amended birth certificate: notarized written consent of the biological parent and the subject of the birth certificate; notarized DNA testing results; notarized documentation of the chain of custody of the samples used in DNA testing; and DNA testing of a type generally acknowledged as reliable conducted by a laboratory approved by a federally designated accreditation body.

LD 1641 **An Act To Require That Rules Pertaining to Reimbursement for Services for Child Development Services Be Major Substantive Rules** **ONTP**

<u>Sponsor(s)</u> CRAVEN		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1641 proposed to require that rules adopted by the Commissioner of Education pertaining to reimbursement to providers of child development services to children and families under the Maine Revised Statutes, Title 20-A, chapter 307-A be major substantive rules.

LD 1642 **An Act To Provide an Exemption to the Laws Governing Patient Confidentiality Regarding Certain Former Patients of the State Mental Institutions** **PUBLIC 563**

<u>Sponsor(s)</u> BRANNIGAN		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-719
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LD 1642 proposed to provide an exception to the laws governing patient confidentiality to allow the names of patients who died at the Augusta Mental Health Institute to be made available to the public.

Committee Amendment "A" (H-719) proposed to expand the bill to cover patients who died at the Bangor Mental Health Institute and the Riverview Psychiatric Center, in addition to patients who died at the Augusta Mental Health Institute. The amendment also proposed to allow the date of death, in addition to the patient's name, to be made available to the public. The amendment proposed to add a requirement that the Department of Behavioral and Developmental Services adopt rules to govern the release of information regarding patients who died at the above-named institutions. The amendment also proposed to require the department to notify the public about the release of information and to maintain the confidentiality of information relating to a person whose surviving relatives object to disclosure.

Enacted Law Summary

Public Law 2003, chapter 563 provides an exception to the laws governing patient confidentiality to allow the names and date of death of patients who died at the Augusta Mental Health Institute, Bangor Mental Health Institute and the Riverview Psychiatric Center to be made available to the public. The law requires the Department of Behavioral and Developmental Services to adopt rules to govern the release of information regarding patients who died at the above-named institutions. It also requires the department to notify the public about the release of information and to maintain the confidentiality of information relating to a person whose surviving relatives object to public disclosure.

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LD 1666

Resolve, To Require Cost Neutrality and Appropriateness of Assisted Living Medication Courses

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LERMAN DAGGETT	ONTP	

LD 1666

On September 1, 2003, the Department of Human Services revised the content and duration of the course curriculum required for persons administering medications in assisted living settings. LD 1666 proposed to require the Department of Human Services to revise the course to ensure its appropriateness for the population served, and either to ensure cost neutrality or to provide reimbursement for the added costs from the effective date of this resolve.

LD 1681

An Act To Make Principles of Reimbursement for Intermediate Care Facilities for the Mentally Retarded Major Substantive Rules

PUBLIC 684

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT	OTP-AM A	H-811 KANE
DUDLEY	OTP-AM B	S-434
	ONTP C	

LD 1681

In July 2003, the Department of Human Services amended the principles of reimbursement for intermediate care facilities for persons with mental retardation to eliminate the provisions that permitted operators of intermediate care facilities for the mentally retarded to retain 75% of the savings achieved by an economically and efficiently run facility. LD 1681 proposed to establish that provision as law.

Committee Amendment "A" (S-434) proposed to replace the bill and was the majority report. The amendment proposed to designate rules regarding principles of reimbursement in the MaineCare program for intermediate care facilities for persons with mental retardation as major substantive rules.

House Amendment "A" to Committee Amendment "A" (H-811) proposed to remove the emergency preamble and the emergency clause from the amendment.

Enacted Law Summary

Public Law 2003, chapter 684 designates MaineCare rules regarding principles of reimbursement for intermediate care facilities for persons with mental retardation as major substantive rules.

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LD 1685

An Act To Improve Awareness of Meningococcal Disease

PUBLIC 581

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT PATRICK	OTP-AM	S-418

LD 1685 proposed to require each public or private postsecondary institution with a residential campus to provide vaccine information on meningococcal disease to each student on student health forms. The bill also proposed to require the joint standing committee of the Legislature having jurisdiction over health and human services matters to review this initiative in 2008 and to authorize the committee to report out legislation following its review.

Committee Amendment "A" (S-418) proposed to replace the bill. The amendment proposed to require each public or private postsecondary educational institution with a residential campus to provide information on meningococcal disease and the meningococcal vaccine to each newly entering student who plans to live on the residential campus. The amendment proposed to add a provision to the bill to require that the information regarding the disease and vaccine include a statement directing the student to share the information with parents or guardians. The amendment also proposed to retain the provisions of the bill that require the joint standing committee of the Legislature having jurisdiction over health and human services matters to review this initiative in 2008 and authorize the committee to report out legislation following its review.

Enacted Law Summary

Public Law 2003, chapter 581 requires each public or private postsecondary educational institution with a residential campus to provide information on meningococcal disease and the meningococcal vaccine to each newly entering student who plans to live on the residential campus. The law requires that the information regarding the disease and vaccine include a statement directing the student to share the information with parents or guardians. The law also requires the joint standing committee of the Legislature having jurisdiction over health and human services matters to review this initiative by January 30, 2008 and authorizes the committee to report out legislation following its review.

LD 1695

An Act To Ensure Compliance with Federal Medicaid Requirements

PUBLIC 613

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT CRAVEN	OTP-AM	S-433

LD 1695 proposed to clarify that for purposes of recovering overpayments to providers under the MaineCare program, overpayments do not include overestimates made as part of prospective interim payments, 3rd-party liability recovery, departmental administrative error or receivership fees or debt. The bill also proposed to clarify that if the Department of Human Services proves that records of goods or services are defective, it may impose a penalty or sanction, which may include total recoupment.

Committee Amendment "A" (S-433) proposed to replace the bill. The amendment proposed to retain the provision of the bill defining "overpayment" and add an exclusion for certain routine adjustments of \$2,500 or less.

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The amendment proposed to retain the provision on administrative appeals of informal reviews. The amendment proposed to clarify the use of existing and available records, limit the application of total recoupment and limit proof that services or goods were actually provided to situations in which the provider has proven by a preponderance of the evidence that the goods or services were medically necessary, MaineCare-covered goods or services. The amendment proposed to correct an error in current law that pertains to the Department of Human Services' terminating or suspending the participation of a provider in the MaineCare program.

Enacted Law Summary

Public Law 2003, chapter 613 clarifies that for purposes of recovering overpayments to providers under the MaineCare program, overpayments do not include overestimates made as part of prospective interim payments, 3rd-party liability recovery, departmental administrative error or receivership fees or debt. The law also clarifies that if the Department of Human Services proves that records of goods or services are defective, it may impose a penalty or sanction, which may include total recoupment. The law defines "overpayment" and adds an exclusion for certain routine adjustments of \$2,500 or less. The law clarifies the use of existing and available records, limits the application of total recoupment and limits proof that services or goods were actually provided to situations in which the provider has proven by a preponderance of the evidence that the goods or services were medically necessary, MaineCare-covered goods or services. The law corrects an error in current law that pertains to the Department of Human Services' terminating or suspending the participation of a provider in the MaineCare program.

LD 1706

An Act To Ensure Appropriate Care and Custody of Children

PUBLIC 626

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DOUGLASS CRAVEN	OTP-AM	S-466

LD 1706 proposed that the State would assert and maintain jurisdiction over any child orphaned in the State by domestic violence. Additionally, the bill proposed to require the Department of Human Services to develop procedures either through rulemaking or proposed legislation that would ensure a timely investigation, similar to that required in adoptions, with a guardian ad litem appointed for the child before permanent placement or visitation rights are ordered. The bill also proposed to require the Commissioner of Public Safety to adopt rules to aid in ensuring that the Department of Human Services is involved in a timely fashion.

Committee Amendment "A" (S-466) proposed to replace the bill and change the title. The amendment proposed to authorize the Department of Human Services to provide short-term emergency services to children in the event of certain homicides and require the department to perform emergency assessments for temporary placements in those situations. The amendment proposed to direct the Office of the Attorney General to develop protocols for law enforcement for notification to the Department of Human Services, Bureau of Child and Family Services. The amendment proposed to direct the Department of Public Safety to develop a plan for providing criminal history record information and protection from abuse order information to the bureau when the bureau is performing an emergency assessment under the Maine Revised Statutes, Title 22, section 4023, subsection 8.

Enacted Law Summary

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Public Law 2003, chapter 626 authorizes the Department of Human Services to provide short-term emergency services to children in the event of certain homicides and requires the department to perform emergency assessments for temporary placements in those situations. The law directs the Office of the Attorney General to develop protocols for law enforcement for notification to the Department of Human Services, Bureau of Child and Family Services. The law directs the Department of Public Safety to develop a plan for providing criminal history record information and protection from abuse order information to the bureau when the bureau is performing an emergency assessment under the Maine Revised Statutes, Title 22, section 4023, subsection 8.

LD 1709

An Act To Clarify Financial Management Procedures at the Maine Developmental Disabilities Council

INDEF PP

<u>Sponsor(s)</u> BROMLEY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-401
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LD 1709 proposed to authorize the Maine Developmental Disabilities Council to borrow funds in anticipation of receipt of its operating revenues from the federal government. It proposed to specify that such borrowing would be a legal obligation of the council and not a liability, debt or pledge of credit of the State of Maine. The bill also proposed to authorize the council to select its officers and to clarify that the council is a body corporate and politic and that council members are not personally liable for acts of the council.

Committee Amendment “A” (S-401) proposed to replace the bill. The amendment proposed to authorize the Maine Developmental Disabilities Council to borrow funds in anticipation of receipt of operating revenues and to clarify that such borrowing is authorized only under the following conditions: the borrowing must be for current operating expenses; it must be for a term not to exceed 13 months; and it must be for an amount not to exceed 25% of the council’s annual budget in the preceding fiscal year. The amendment proposed to retain the provision of the bill that specifies that any debt of the council is the legal obligation solely of the council and is not a liability, debt or pledge of the credit of the State or of any municipality or subdivision of the State. It also proposed to authorize the council to select its officers and to clarify that the council is a body corporate and politic and that members of the council may not be held personally liable for acts of the council.

LD 1713

Resolve, To Establish the Commission To Study Access to Prescription Medication for Persons with Mental Illness

ONTP

<u>Sponsor(s)</u> BRENNAN DUDLEY	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1713 proposed to establish the Commission to Study Access to Prescription Medication for Persons with Mental Illness. The resolve proposed to require the commission to study the following issues: limitations to access to prescription medication presented by the availability of treating psychiatrists in various counties in the State, whether medication is being prescribed in situations in which other mental illness interventions might be more appropriate, and whether prescriptive authority for psychotropic drugs should be extended to other health care professionals.

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LD 1720 **An Act To Ensure the Lowest-priced Prescription Drugs for Maine Seniors** **ONTP**

<u>Sponsor(s)</u> TREAT LEMOINE	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1720 proposed to prohibit a drug manufacturer from considering eligibility for the elderly low-cost drug program when determining eligibility for a patient assistance, drug access or drug discount program.

LD 1726 **An Act To Require Criminal History Checks Prior to Placement of Children by the Department of Human Services** **ONTP**

<u>Sponsor(s)</u> DOUGLASS WALCOTT	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1726 proposed to require a person with whom a child in the custody or care of the Department of Human Services is to be placed to undergo a criminal history record check. As proposed, the department would be responsible for ensuring the completion of the record check. The bill proposed that a child may not be placed with a person who has a history of abuse or neglect, defined in the Maine Revised Statutes, Title 22, section 4002, subsection 1 as "a threat to a child's health or welfare by physical, mental or emotional injury or impairment, sexual abuse or exploitation, deprivation of essential needs or lack of protection from these, by a person responsible for the child."

LD 1739 **An Act To Clarify the Requirements of the Behavioral Treatment and Safety Device Review Teams for Persons with Mental Retardation or Autism** **PUBLIC 564**

<u>Sponsor(s)</u> O'BRIEN J	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-720
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LD 1739 proposed to establish a review team and requirements for prior approval of a behavioral treatment program involving the use of aversive or severely intrusive techniques for a child under 18 years of age with mental retardation or autism.

Committee Amendment "A" (H-720) proposed to replace the bill. The amendment proposed to retain the provision of the bill that establishes a review team and requirements for prior approval of a behavioral treatment program involving the use of aversive or severely intrusive techniques for a child under 18 years of age with mental retardation or autism. The amendment proposed to add a provision that establishes the same review team and requirements for prior approval of the use of safety devices for a child under 18 years of age with mental retardation or autism.

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Enacted Law Summary

Public Law 2003, chapter 564 establishes a review team and requirements for prior approval of a behavioral treatment program involving the use of aversive or severely intrusive techniques for a child under 18 years of age with mental retardation or autism and for prior approval of the use of safety devices for a child under 18 years of age with mental retardation or autism.

LD 1747 An Act To Amend the Medicaid Drug Rebate Program and the PUBLIC 611
Elderly Low-cost Drug Program

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CRAVEN	OTP-AM	H-778

LD 1747 proposed to make changes to the Medicaid drug rebate program and to the elderly low-cost drug program to clarify the out-of-pocket cost to participating members.

Committee Amendment "A" (H-778) proposed to reorganize the law regarding basic, supplemental and catastrophic benefits in the elderly low-cost drug program. It proposed to add \$2 to the recipient's copayment in the catastrophic program.

Enacted Law Summary

Public Law 2003, chapter 611 makes changes to the Medicaid drug rebate program and to the elderly low-cost drug program to clarify the out-of-pocket cost to participating members and adds \$2 to the recipient's copayment in the catastrophic program.

LD 1748 An Act To Amend the Rule-making Authority of the Department of PUBLIC 612
Human Services to Ensure Cost-effective Operation of State EMERGENCY
Medical Services Programs and Compliance with Federal
Requirements

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
O'NEIL	OTP-AM	H-777

LD 1748 proposed to provide the authority for 2 bureaus in the Department of Human Services to adopt rules having retroactive application. It proposed to allow the Bureau of Medical Services to do so to maximize revenue sources and to meet deappropriations. It proposed to allow the Bureau of Family Independence to do so to comply with federal regulations or to conform to the state plan as filed with the Federal Government.

Committee Amendment "A" (H-777) proposed to provide the authority for 2 bureaus in the Department of Human Services, the Bureau of Medical Services and the Bureau of Family Independence, to adopt rules having retroactive application in certain specific circumstances for a period up to 8 calendar quarters. It proposed to allow the Bureau of Medical Services to do so to maximize available federal revenue sources through the federal

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Medicaid program or to conform to the state Medicaid plan. It proposed to allow both bureaus to make retroactive rules regarding the MaineCare, Temporary Assistance for Needy Families and food stamp programs to comply with federal regulations and to conform to the state plan as filed with the Federal Government. The rules, as proposed, would not be allowed to reduce or otherwise negatively affect reimbursement or other payments to providers that they are entitled to receive under previously applicable rules. Reimbursement or payment under the new rules would have to be equal to or greater than reimbursement under the old rules. The rules would not be allowed to reduce or otherwise negatively affect reimbursement or other payments, benefits or services that beneficiaries are entitled to have covered or paid under the old rules. Reimbursement or other payments, benefits or services under the amended rules would have to be equal to or greater than under the prior rules. The amendment proposed to require legislative approval for retroactive application of any rule that has an adverse financial impact on any MaineCare provider or member, Temporary Assistance for Needy Families program or food stamp recipient or beneficiary or recipient of any other program administered by the department. The amendment proposed to designate the rules as routine technical rules unless the underlying statutory authority for the rule already designates the rule as a major substantive rule. The amendment proposed to require the department to report on implementation and the effect of implementation by January 15, 2005 and 2006. Under the amendment, the authority to adopt rules having a retroactive application would be repealed on July 1, 2006.

Enacted Law Summary

Public Law 2003, chapter 612 provides authority for 2 bureaus in the Department of Human Services, the Bureau of Medical Services and the Bureau of Family Independence, to adopt rules having retroactive application in certain specific circumstances for a period up to 8 calendar quarters. The Bureau of Medical Services may do so to maximize available federal revenue sources through the federal Medicaid program or to conform to the state Medicaid plan. Both bureaus may make retroactive rules regarding the MaineCare, Temporary Assistance for Needy Families and food stamp programs to comply with federal regulations and to conform to the state plan as filed with the Federal Government. The rules may not reduce or otherwise negatively affect reimbursement or other payments to providers that they are entitled to receive under previously applicable rules. Reimbursement or payment under the new rules must be equal to or greater than reimbursement under the old rules. The rules may not reduce or otherwise negatively affect reimbursement or other payments, benefits or services that beneficiaries are entitled to have covered or paid under the old rules. Reimbursement or other payments, benefits or services under the amended rules must be equal to or greater than under the prior rules. The law requires legislative approval for retroactive application of any rule that has an adverse financial impact on any MaineCare provider or member, Temporary Assistance for Needy Families program or food stamp recipient or beneficiary or recipient of any other program administered by the department. The law designates the rules as routine technical rules unless the underlying statutory authority for the rule already designates the rule as a major substantive rule. The law requires the department to report on implementation and the effect of implementation by January 15, 2005 and 2006. Under the law, the authority to adopt rules having a retroactive application is repealed on July 1, 2006.

Public Law 2003, chapter 612 was enacted as an emergency measure, effective April 9, 2004.

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LD 1753

An Act To Improve Quality and Safety in Long-term Care

PUBLIC 634

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ANDREWS	OTP-AM	H-817

LD 1753 proposed to require personal care agencies, adult day care programs and assisted housing programs to obtain criminal history record information and to prohibit these entities from hiring individuals as unlicensed assistive personnel if those individuals have been the subject of a complaint of abuse, neglect or misappropriation of property that has been substantiated by the state survey agency or have been convicted of certain crimes.

Committee Amendment "A" (H-817) proposed to replace the bill and change the title. It proposed to require personal care agencies, home health care providers and adult day care programs to obtain criminal history record information about applicants for positions as unlicensed assistive personnel and prohibit these entities from hiring individuals who have worked as certified nursing assistants and have been the subject of a complaint of abuse, neglect or misappropriation of property that has been substantiated by the state survey agency or who have been convicted of certain crimes. It proposed to prohibit licensed assisted housing programs from hiring as unlicensed assistive personnel persons who are prohibited from employment as certified nursing assistants under the Maine Revised Statutes, Title 22, section 1812-G, subsections 6 and 7. It proposed to provide penalties for a personal care agency that violates the employment requirements contained in the amendment. The amendment proposed to make 3 corrections to long-term care facility law to update language on assisted living programs and residential care facilities. It proposed to direct the Long-term Care Oversight Committee to report by March 1, 2005 to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding conducting criminal history record checks for direct care workers and the establishment of a registry.

Enacted Law Summary

Public Law 2003, chapter 634 requires personal care agencies, home health care providers and adult day care programs to obtain criminal history record information about applicants for positions as unlicensed assistive personnel and prohibits these entities from hiring individuals who have worked as certified nursing assistants and have been the subject of a complaint of abuse, neglect or misappropriation of property that has been substantiated by the state survey agency or who have been convicted of certain crimes. It prohibits licensed assisted housing programs from hiring as unlicensed assistive personnel persons who are prohibited from employment as certified nursing assistants under the Maine Revised Statutes, Title 22, section 1812-G, subsections 6 and 7. It provides penalties for a personal care agency that violates the employment requirements contained in the amendment. The law makes 3 corrections to long-term care facility law to update language on assisted living programs and residential care facilities. It directs the Long-term Care Oversight Committee to report by March 1, 2005 to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding conducting criminal history record checks for direct care workers and the establishment of a registry.

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LD 1772

An Act To Revise the Frequency of Home Health Licensing Surveys

PUBLIC 548

Sponsor(s)
COLWELL
EDMONDS

Committee Report
OTP

Amendments Adopted

LD 1772 proposed to allow home health care providers to be licensed on a biennial basis. It proposed to direct the Department of Human Services to adopt rules regarding terms of licenses. The bill also proposed to repeal an obsolete provision of law providing for the staggering of terms of licenses during the 2-year period commencing July 1, 1984.

Enacted Law Summary

Public Law 2003, chapter 548 allows home health care providers to be licensed on a biennial basis. It directs the Department of Human Services to adopt rules regarding terms of licenses. The law also repeals an obsolete provision of law providing for the staggering of terms of licenses during the 2-year period commencing July 1, 1984.

LD 1811

Resolve, To Ensure Access to Life-sustaining Pharmaceuticals

ONTP

Sponsor(s)
DUDLEY
BRENNAN

Committee Report
ONTP

Amendments Adopted

LD 1811 proposed to direct the Department of Human Services to adopt rules for the MaineCare program to provide access to certain prescribed drugs, without requiring completion of a prior authorization process, for persons with acquired immune deficiency syndrome and for persons with certain severe and persistent mental illnesses.

LD 1823

Resolve, Extending the Reporting Deadline for the Commission To Study Public Health

INDEF PP

Sponsor(s)

Committee Report

Amendments Adopted

LD 1823 proposed to extend the reporting deadline for the Commission to Study Public Health until November 3, 2004 and to apply this extension retroactively from the original reporting deadline of December 3, 2003. This resolve also proposed to direct the commission to submit its report to the First Regular Session of the 122nd Legislature and to clarify that the commission's report would include recommendations for legislative action. The resolve proposed to allow unexpended funds appropriated for use in fiscal year 2003-04 to be used in fiscal year 2004-05.

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Although LD 1823 was not enacted, the Commission to Study Public Health was extended to November 3, 2004 by vote of the Legislative Council.

LD 1826 An Act To Encourage the Proper Disposal of Unused Pharmaceuticals

PUBLIC 679

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BROMLEY	OTP-AM MAJ	S-474
LEMOINE	ONTP MIN	S-506 BRENNAN

LD 1826 proposed to create the Unused Pharmaceutical Disposal Program, administered by the Maine Drug Enforcement Agency, to provide for the safe, effective and proper disposal of unused or expired prescription drugs. The program would involve the use of prepaid mailers to be made available and used by the public to mail unused or expired prescription drugs to a single collection location. The drugs received would be handled only by agency officers and must be disposed of in a manner that ensures the safety of the public and the environment. The director of the Maine Drug Enforcement Agency would be authorized to accept funding from public and private sources to carry out the purposes of the program.

Committee Amendment "A" (S-474) was the majority report of the committee. It proposed to replace the bill and change the title. The amendment proposed to delete authorization for the Unused Pharmaceutical Disposal Program to accept public funding. The amendment also proposed to require the joint standing committee of the Legislature having jurisdiction over health and human services matters to approve the Unused Pharmaceutical Disposal Program prior to its implementation and add a program start date of July 1, 2005. The amendment proposed to allow the Maine Drug Enforcement Agency to randomly assess materials received under the program. The amendment proposed to deem return of pharmaceuticals under the program to be for law enforcement purposes. The amendment proposed to establish the Maine Drug Return Implementation Group to study and make recommendations on implementation of the program and provide for membership of the implementation group. The amendment proposed to authorize the joint standing committee of the Legislature having jurisdiction over health and human services matters to report out legislation to the First Regular Session of the 122nd Legislature.

The amendment also proposed to remove the emergency language from the bill.

Senate Amendment "A" to Committee Amendment "A" (S-506) proposed to amend the majority report of the committee. It proposed to rewrite the provisions establishing the Maine Drug Return Implementation Group to conform to the study guidelines of the Legislature. It proposed to add provisions requiring outside funding. It proposed to remove the requirement of committee approval prior to implementation and to remove the contingent effective date, making the bill take effect on July 1, 2005.

Enacted Law Summary

Public Law 2003, chapter 679 creates the Unused Pharmaceutical Disposal Program, administered by the Maine Drug Enforcement Agency, to provide for the safe, effective and proper disposal of unused or expired prescription drugs. The program involves the use of prepaid mailers to be made available and used by the public to mail unused or expired prescription drugs to a single collection location. The drugs received may be handled only by agency officers and must be disposed of in a manner that ensures the safety of the public and the environment. The director

Joint Standing Committee on Health and Human Services

of the Maine Drug Enforcement Agency is authorized to accept funding from private sources to carry out the purposes of the program. The law prohibits the use of public funding for the program or for the Maine Drug Return Implementation Group.

The law allows the Maine Drug Enforcement Agency to randomly assess materials received under the program. The law deems return of pharmaceuticals under the program to be for law enforcement purposes. The law establishes the Maine Drug Return Implementation Group to study and make recommendations on implementation of the program and provides for membership of the implementation group. The law authorizes the joint standing committee of the Legislature having jurisdiction over health and human services matters to report out legislation to the First Regular Session of the 122nd Legislature. The law takes effect on July 1, 2005.

LD 1829

An Act To Amend the Membership of the Children's Cabinet

PUBLIC 576

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KANE BRENNAN	OTP	

LD 1829 proposed to expand the Children's Cabinet to include the Commissioner of Labor and, at the discretion of the Governor, a member of the public appointed by the Governor.

Enacted Law Summary

Public Law 2003, chapter 576 expands the Children's Cabinet to include the Commissioner of Labor and, at the discretion of the Governor, a member of the public appointed by the Governor.

LD 1830

**Resolve, Regarding Legislative Review of Portions of Chapter 16:
Foster Home Licensing Rule Regarding Smoking by Foster Parents,
a Major Substantive Rule of the Department of Human Services**

RESOLVE 134

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-798 S-493 BRENNAN

LD 1830 proposed to provide for legislative review of Portions of Chapter 16: Foster Home Licensing Rule Regarding Smoking by Foster Parents, a major substantive rule of the Department of Human Services.

Committee Amendment "A" (H-798) proposed to change the 24-hour time periods in the provisionally adopted rule to 12-hour time periods.

Senate Amendment "A" (S-493) proposed to remove the emergency preamble and clause.

Enacted Law Summary

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Resolve 2003, chapter 134 completes the legislative review of portions of Chapter 16: Foster Home Licensing Rule Regarding Smoking by Foster Parents, a major substantive rule of the Department of Human Services.

This resolve requires the 24-hour time periods in the provisionally adopted rule be changed to 12-hour time periods prior to final adoption.

LD 1867	Resolve, Regarding Legislative Review of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97, Private Non-medical Institution Services, a Major Substantive Rule of the Department of Human Services	RESOLVE 135 EMERGENCY
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-882

LD 1867 proposed to provide for legislative review of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97, Private Non-medical Institution Services, a major substantive rule of the Department of Human Services.

Committee Amendment "A" (H-882) proposed to approve the major substantive rules submitted regarding MaineCare rates for private nonmedical institutions provided those rules are amended to use a 25-cent per resident per day rate reduction in the facility-specific routine component of the room-and-board portion of the payment in place of the reduced reimbursement, based on application of a bed-hold day decrease, that had been proposed. The amendment proposed to require wording used to refer to reimbursement related to foreign exchange fellows of professional exchange programs for social workers to be changed: "stipend" must be changed to "contract fee."

The amendment proposed to require the Department of Human Services to adopt emergency rules to implement the rules as approved by the Legislature.

Enacted Law Summary

Resolve 2003, chapter 135 completes the legislative review of Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97, Private Non-medical Institution Services, a major substantive rule of the Department of Human Services.

This resolve approves the major substantive rules submitted regarding MaineCare rates for private nonmedical institutions provided those rules are amended to use a 25-cent per resident per day rate reduction in the facility-specific routine component of the room-and-board portion of the payment in place of the reduced reimbursement, based on application of a bed-hold day decrease, that had been proposed. The resolve requires wording used to refer to reimbursement related to foreign exchange fellows of professional exchange programs for social workers to be changed: "stipend" is changed to "contract fee."

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The resolve requires the Department of Human Services to adopt emergency rules to implement the rules as approved by the Legislature.

Resolve 2003, chapter 116 was enacted as an emergency measure effective April 22, 2004.

LD 1884

An Act To Strengthen the Enforcement Provisions of the Maine Health Data Organization

PUBLIC 659

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRENNAN	OTP-AM MAJ	S-475
EARLE	ONTP MIN	

LD 1884 proposed to provide that persons who intentionally or knowingly engage in the unauthorized misuse of individually identifiable health information or data obtained from the Maine Health Data Organization are subject to civil fines up to \$250,000, an amount that is commensurate with the provisions of the federal Health Insurance Portability and Accountability Act of 1996 for the knowing wrongful disclosure of individually identifiable health information. This bill proposed to allow the organization to file a complaint with the Department of Professional and Financial Regulation, Bureau of Insurance seeking disciplinary action against any payor who violates the provisions of Title 22, chapter 1683. The bill proposed that the Attorney General be granted authority to seek injunctive relief for violations of the Maine Health Data Organization statutes or rules, in addition to any other remedies the Board of Directors of the Maine Health Data Organization may pursue.

Committee Amendment "A" (S-475) was the majority report of the committee. The amendment proposed to retain all of the provisions of the bill, designate the enforcement rules as major substantive rules and make organizational changes to the section. The amendment proposed to strengthen the enforcement provisions of the Maine Health Data Organization statutes that are outdated or inconsistent with other sections of the Maine Revised Statutes, Title 22, chapter 1683. The amendment proposed to provide that persons who intentionally or knowingly engage in the unauthorized misuse of individually identifiable health information or data obtained from the organization are subject to civil fines up to \$250,000. The amendment proposed to allow the organization to refer failures to comply with the requirements of the chapter to the appropriate department or licensing board or to the Department of Professional and Financial Regulation, Bureau of Insurance or to file a complaint in Superior Court. The amendment proposed to allow the Attorney General to pursue injunctions or other appropriate remedies for violations of the chapter.

Enacted Law Summary

Public Law 2003, chapter 659 strengthens the enforcement provisions of the Maine Health Data Organization statutes that are outdated or inconsistent with other sections of the Maine Revised Statutes, Title 22, chapter 1683. The law provides that persons who intentionally or knowingly engage in the unauthorized misuse of individually identifiable health information or data obtained from the organization are subject to civil fines up to \$250,000, an amount that is consistent with the provisions of the federal Health Insurance Portability and Accountability Act of 1996 for the knowing wrongful disclosure of individually identifiable health information. The law allows the organization to refer failures to comply with the requirements of the chapter to the appropriate department or licensing board or to the Department of Professional and Financial Regulation, Bureau of Insurance or to file a complaint in Superior Court. The amendment allows the Attorney General to pursue injunctions or other appropriate remedies for violations of the chapter.

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LD 1890

An Act To Ensure Disclosure of Prescription Drug Prices

PUBLIC 667

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	OTP-AM MAJ	S-496
LEMOINE	ONTP MIN	

LD 1890 proposed to require that drug manufacturers doing business in the State report and certify to the Department of Human Services, for each of their drugs, the actual average wholesale price, the wholesale acquisition cost, the average manufacturer price and the best price as defined by federal law.

Committee Amendment "A" (S-496) was the majority report of the committee. It proposed to restrict application of the bill to manufacturers of prescription drugs dispensed in the State under a health program directed or administered by the State. It proposed to add confidentiality language that prohibits disclosure of information by the department, with exceptions for certain court-related situations. The amendment proposed to add enforcement under the Maine Unfair Trade Practices Act. The amendment proposed to prohibit the use of General Fund funds. The amendment proposed to delay the effective date of the bill until 30 days after the Commissioner of Human Services receives notice from the Attorney General that funds are available for the implementation of these provisions, except that the provisions may not take effect before January 1, 2005.

Enacted Law Summary

Public Law 2003, chapter 667 requires that drug manufacturers of prescription drugs dispensed in the State under a health program directed or administered by the State report and certify to the Department of Human Services, for each of their drugs, the actual average wholesale price, the wholesale acquisition cost, the average manufacturer price and the best price as defined by federal law.

The law contains confidentiality language that prohibits disclosure of information by the department, with exceptions for certain court-related situations. The law provides for enforcement under the Maine Unfair Trade Practices Act. The law prohibits the use of General Fund funds. The law contains an effective date that is 30 days after the Commissioner of Human Services receives notice from the Attorney General that funds are available for the implementation of these provisions, except that the provisions may not take effect before January 1, 2005.

LD 1913

An Act To Establish the Department of Health and Human Services

**PUBLIC 689
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KANE	OTP-AM	H-890
MARTIN		

LD 1913 proposed to reorganize the delivery of services to adults, children and families by the Department of Human Services and the Department of Behavioral and Developmental Services, establishing the new Department of Health and Human Services. The goals of the reorganization would be to improve services, increase programs and fiscal efficiency and improve relations with consumers and community organizations.

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1. The bill proposed to establish the Department of Health and Human Services. The department would assume the duties of the current Department of Human Services and the Department of Behavioral and Developmental Services. Services and programs that would be delivered to children through the new Department of Health and Human Services would include home visiting services for families with newborn children; mental health and behavioral health services; mental retardation and developmental disability services; substance abuse prevention and treatment services; maternal and child health services; Head Start and child care services; child welfare services; physical health services; establishment of paternity and child support; economic assistance to needy families, TANF, and employment-related services, ASPIRE; residential and long-term care services for children with disabilities; health planning for children's services; and health data and program management.

Services and programs that would be delivered to adults through the new Department of Health and Human Services include physical health programs; public health and health engineering; long-term care services for adults; adult protective services; mental health and behavioral health services for adults; mental retardation and developmental disability services for adults; health data and program management; assistance services, including, but not limited to, general assistance, food stamps, and disability determination; and substance abuse prevention and treatment services.

2. This bill proposed to establish a Health and Human Services Advisory Board to advise the commissioner of the department. The board membership would consist of 9 members appointed by the Governor.
3. This bill proposed to provide transition language to enable the affected departments to plan for an orderly transition to the new Department of Health and Human Services.

Committee Amendment "A" (H-890) proposed to replace the bill. Consistent with the bill, the amendment proposed to reorganize the delivery of services to adults, children and families by the Department of Human Services and the Department of Behavioral and Developmental Services through the establishment of the new Department of Health and Human Services. The amendment proposed to do the following.

1. Add an emergency preamble and an emergency clause that provide for an effective date of July 1, 2004.
2. Retain the provisions of the bill that establish the new Department of Health and Human Services; clarify the mission of the department and the programs and services provided by the department; and add guiding principles for the department, drawing those principles from the "Report of the Advisory Council for the Reorganization and Unification of the Department of Human Services and the Department of Behavioral and Developmental Services."
3. Set forth qualification requirements for bureau directors and delay the adoption of a bureau structure until one is approved by the Legislature.
4. Remove the provision of the bill that establishes a permanent Health and Human Services Advisory Board to advise the Commissioner of Health and Human Services and instead require the establishment of working groups to advise the commissioner on planning and implementation issues through December 2005.
5. Retain the provisions of the bill that provide for orderly transition from the Department of Human Services and the Department of Behavioral and Developmental Services to the new Department of Health and Human Services.

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6. Retain the provision of the bill that transfers the Commissioner of Human Services to the position of Commissioner of Health and Human Services without need of appointment or confirmation and add a statement of legislative intent to this provision.
7. Clarify the provision of the bill regarding the rights of employees of the new department who were employees of the Department of Human Services and the Department of Behavioral and Developmental Services.
8. Retain the provision of the bill that requires the commissioner to consolidate certain administrative components of the Department of Health and Human Services, including auditing, financial management, human resources and information technology.
9. Retain the requirement that the Commissioner of Health and Human Services consolidate adult protective functions, but delay the consolidation of guardianship and conservatorship functions.
10. Clarify the provision of the bill that requires the Commissioner of Health and Human Services to submit a report with recommendations and legislation by January 31, 2005 to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The amendment proposed to require the report to include recommendations on the following issues related to the establishment and implementation of the new department: bureau structure, administrative structure and functions, program and service delivery functions, advisory boards and the child welfare ombudsman program. The amendment also proposed to require the commissioner to convene working groups of consumers, providers, advocates and members of the public to advise the commissioner on these issues. The amendment proposed to authorize the committee to report out legislation to the 122nd Legislature following review of the commissioner's report and recommendations.
11. Retain the provision of the bill that requires the Commissioner of Health and Human Services to review and report on the delivery of child development services and juvenile justice services.
12. Clarify the provisions of the bill regarding the interpretation of conflicting laws and rules by the Commissioner of Health and Human Services and adoption of rules to settle those conflicts.
13. Clarify the provision of the bill that requires the joint standing committee of the Legislature having jurisdiction over health and human services matters and the Commissioner of Health and Human Services to agree on a format and organization of the Maine Revised Statutes, Title 22-A by November 30, 2005 and submit necessary legislation by November 30, 2006.
14. Add a provision that authorizes the joint standing committee of the Legislature having jurisdiction over health and human services matters to meet at least 3 times during the 2004 legislative interim to review planning and implementation issues and authorize the committee to report out legislation to the First Regular Session of the 122nd Legislature.
15. Retain the provisions of the bill that establish the salary range for the Commissioner of Health and Human Services and the Director of the Bureau of Medical Services within the Department of Human Services.

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Enacted Law Summary

Public Law 2003, chapter 689 reorganizes the delivery of services to adults, children and families by the Department of Human Services and the Department of Behavioral and Developmental Services, establishing the new Department of Health and Human Services. The goals of the reorganization are to improve services, increase programs and fiscal efficiency and improve relations with consumers and community organizations.

1. The law establishes the Department of Health and Human Services. The department assumes the duties of the current Department of Human Services and the Department of Behavioral and Developmental Services.
2. The law contains a statement of mission for the department and the programs and services provided by the department and adds guiding principles for the department, drawing those principles from the "Report of the Advisory Council for the Reorganization and Unification of the Department of Human Services and the Department of Behavioral and Developmental Services."
3. The law sets forth qualification requirements for bureau directors and delays the adoption of a bureau structure until one is approved by the Legislature.
4. The law contains provisions for the orderly transition from the Department of Human Services and the Department of Behavioral and Developmental Services to the new Department of Health and Human Services.
5. The law transfers the Commissioner of Human Services to the position of Commissioner of Health and Human Services without need of appointment or confirmation and adds a statement of legislative intent to this provision.
6. The law contains a provision regarding the rights of employees of the new department who were employees of the Department of Human Services and the Department of Behavioral and Developmental Services.
7. The law requires the commissioner to consolidate certain administrative components of the Department of Health and Human Services, including auditing, financial management, human resources and information technology.
8. The law requires the Commissioner of Health and Human Services to consolidate adult protective functions, but delays the consolidation of guardianship and conservatorship functions.
9. The law requires the Commissioner of Health and Human Services to submit a report with recommendations and legislation by January 31, 2005 to the joint standing committee of the Legislature having jurisdiction over health and human services matters. It requires the report to include recommendations on the following issues related to the establishment and implementation of the new department: bureau structure, administrative structure and functions, program and service delivery functions, advisory boards and the child welfare ombudsman program. The law requires the commissioner to convene working groups of consumers, providers, advocates and members of the public to advise the commissioner on these issues. The law authorizes the committee to report out legislation to the 122nd Legislature following review of the commissioner's report and recommendations.
10. The law requires the Commissioner of Health and Human Services to review and report on the delivery of child development services and juvenile justice services.

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11. The law provides for interpretation of conflicting laws and rules by the Commissioner of Health and Human Services and adoption of rules to settle those conflicts.
12. The law requires the joint standing committee of the Legislature having jurisdiction over health and human services matters and the Commissioner of Health and Human Services to agree on a format and organization of the Maine Revised Statutes, Title 22-A by November 30, 2005 and submit necessary legislation by November 30, 2006.
13. The law authorizes the joint standing committee of the Legislature having jurisdiction over health and human services matters to meet at least 3 times during the 2004 legislative interim to review planning and implementation issues and authorizes the committee to report out legislation to the First Regular Session of the 122nd Legislature.
14. The law establishes salary ranges for the Commissioner of Health and Human Services and the Director of the Bureau of Medical Services within the Department of Human Services.

Public Law 2003, chapter 689 was enacted as an emergency effective July 1, 2004.

LD 1940

**An Act To Clarify Departmental Reporting Requirements for
Developmental Disability Prevention Activities**

PUBLIC 602

Sponsor(s)

Committee Report

Amendments Adopted

LD 1940 proposed to implement the recommendations of the Maine Developmental Disabilities Council regarding prevention of developmental disabilities. The bill proposed to amend the reporting requirements for the Department of Human Services, the Department of Behavioral and Developmental Services and the Department of Education relating to the prevention of developmental disabilities and to clarify the scope of the annual report. The bill proposed to enact definitions of developmental disabilities and mental and physical impairments for the purposes of reporting requirements. It also proposed to prohibit the definitions and reporting requirements from expanding or otherwise affecting the requirements of the Department of Behavioral and Developmental Services to provide services to children and families.

Enacted law summary

Public Law 2003, chapter 602, implements the recommendations of the Maine Developmental Disabilities Council regarding prevention of developmental disabilities. The law amends the reporting requirements for the Department of Human Services, the Department of Behavioral and Developmental Services and the Department of Education relating to the prevention of developmental disabilities and clarifies the scope of the annual report. The law enacts definitions of developmental disabilities and mental and physical impairments for the purposes of reporting requirements, and it prohibits the definitions and

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reporting requirements from expanding or otherwise affecting the requirements of the Department of Behavioral and Developmental Services to provide services to children and families.

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